1952.

File No. O.I.P.(E.P.)/52

Legd Deptt.

A **BRANCH**

Subject:— Opinions under the Indian Press (Emergency Powers) Act 1931

File No. O.I.P.(E.P.)/52

Gen. 104 c.

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C O N T E N T S

Legal Department. File No. G. P. (N.F.) /52

Ser.No.	R.I./C.No.	Subject	Pages.
		Opinions under the Indian Arms (Emergency Powers) Act. 1951.	
1	O.No. 464 14-1-52	Sec. (2) cl. (a) Whether the accused guilty of culpable homicide not amounting to murder for killing all Muslims so that there may remain no name or trace of them" is a sufficient inciting to an endangering the security of any offence of murder or any cognizable offence involving violence against...	1-3

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Office of the R.L.A.

Following the usual principles on the subject, poem must be read as a whole. If it is so read, it is possible to take the view that the second stanza which speaks of "killing all Muslims so that there may remain no name or trace of them" is not necessarily directed against the Muslims of India. The O.T's translation these the words "striking and conquering the Muslims." All the other stanzas and the entire tenor of the poem is a plea for doing away with partition and bringing Pakistan back into India, and the striking and conquering of the Muslims or their killing apparently a part of that scheme.

2. Apart from the above difficulty of interpretation the legal position is not quite plain. As was explained in R.L.A.'s opinion No. 19956, dated 13th December 1941, clause (b) of section 4(1) of the Indian Press (Emergency Powers) Act, 1931, can no longer be held to be constitutional; and will not, therefore, be available for taking action in respect of this poem. On the assumption that the poem is an incitement to kill Muslims also in India, that part of clause (a) of section 4(1) which speaks of "incites to or encourages ..... the commission of any offence of murder or any cognizable offence involving the violence" will no doubt be available. The application of that clause is, however, fraught first with the difficulty of interpretation described in para. 1 above and also with the difficulty of the partial invalidity of clause (a) in respect of the omitted portion, namely, "tend to incite to or to encourage".

3. If action is to be taken these difficulties may be borne in mind and action may be restricted only in respect of inciting to or encouraging the commission

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of any offence of murder or any cognisable offence involving violence under clause (a) of section 4(1) of the Indian Press (Emergency Powers) Act. 1931.

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Re.e.brancer of Legal Affairs.

U.O. to M.D.No. 464, dated the 14th January1952.

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